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Kestutis Patiejunas

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INTELLECTUAL PROPERTY DEPARTMENT
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EXAMINER

BRUCKART, BENJAMIN R

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/608,637	Applicant(s) PATIEJUNAS, KESTUTIS	
	Examiner BENJAMIN R. BRUCKART	Art Unit 2446	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 March 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) See Continuation Sheet is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) See Continuation Sheet is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 June 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Continuation of Disposition of Claims: Claims pending in the application are 1-16,20,21,23-31,34-49,52-54,56-62,64,65,80-84,87-89,91-98,100-102,104-110,113-120,135,136,144 and 146-148.

Continuation of Disposition of Claims: Claims rejected are 1-16,20,21,23-31,34-49,52-54,56-62,64,65,80-84,87-89,91-98,100-102,104-110,113-120,135,136,144 and 146-148.

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DETAILED ACTION

Claims 1-16, 20, 21, 23-31, 34-49, 52-54, 56-62, 64, 65, 80-84, 87-89, 91-98, 100-102, 104-110, 113-120, 135, 136, 144 and 146-148 are pending in this examination.

Claims 1, 34, 80, 93, 107, and 135 are in independent form.

Claims 1, 20, 25, 34, 80, 87-88, 93, 100, 107, and 135 are amended.

Claims 17-19, 22, 32-33, 50-51, 55, 63, 66-79, 85-86, 90, 99, 103, 111-112, 121-134, 137-143, 145, 149-161 are cancelled.

The applicant is directed to the new examiner of record, see correspondence information in the conclusion.

Claim Objections

Claims 52-54, 56-59 are objected to because of the following informalities: they are dependent upon a cancelled claim. Appropriate correction is required.

Response to Arguments

Applicant's arguments filed in the amendment filed 3/19/09, have been fully considered but are moot in view of new grounds of rejection and some are not persuasive. The reasons set forth below.

Applicant's invention as claimed:

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-16, 20-21, 27-28, 30-31; 34-49, 52-54, 60-62, 64; 80-84, 87-89, 91-92 are rejected under 35 U.S.C. 103(a) as being unpatentable by U.S. Patent No. 7,149,797 by Weller et al in view of US 2002/0129375 by Kim et al in further view of US 2006/0156357 by Lockridge et al.

Regarding claim 1, the Weller reference teaches a system for managing the transmission of distributable content (Weller: col. 2, lines 19-35), comprising:

a collection engine, the collection engine configured to receive distributable content from at least one content provider based (Weller: col. 6, lines 3-33) on a predetermined schedule and a usage demand for the distributable content via a first network (Weller: col. 6, lines 53- col. 7, line 28; predetermined schedule is the deployment; the usage is the overflow) and to process subscriber requests for the distributable content (Weller: col. 6, lines 33-38), content storage, the content storage communicating with the collection engine to store the distributable content (Weller: col. 6, lines 3-32); and

the collection engine is configured to receive the subscriber requests from viewing devices over a second network connecting a subscriber group having a plurality of subscribers (Weller: col. 6, lines 33-38; Fig. 1, tags 119), to transmit the requested content over the second network to one or more viewing devices (Weller: col. 6, lines 33-38), and to generate bills for transmission over the first network but not for transmission over the second network for each subscriber group (Weller: col. 6, line 66- col. 7, line 6) wherein the viewing devices comprises at least one of a computer, television, and a programmable video recording device (Weller: Fig. 1, tag 119).

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Weller does not explicitly disclose that the distributable content is updated at specified intervals based on usage demand for the distributable content and the content is transmitted after a minimum number of requests for the content has been received.

In analogous art, the Kim reference discloses another video-on-demand system which discloses updating popular (i.e. popular content being defined as those videos which are more in demand) content monthly, and that the most popular content meeting a threshold number of requests is transmitted to the Central Office Storage (COS) from the Video Warehouse (VW) (Figure 4, ref. 404, 412; ¶ 66, 70).

It would have been obvious to one of ordinary skill in the art to combine the teachings of Kim with Weller in order to efficiently predict which videos a user will request, thereby providing a real time video-on-demand experience while still maintaining reduced bandwidth latencies as supported by Kim (e.g. abstract).

The modified Weller does not expressly disclose that the distributable content is set to expire after a predetermined time.

In analogous art, Lockridge discloses another VOD system which discloses expiring distributable content after a predetermined time if not enough clients have viewed the content (¶ 25).

It would have been obvious to one of ordinary skill in the art to combine the teaching of Lockridge with modified Weller in order to incorporate Pay-Per-View systems described in the prior art with the Video-On-Demand system described in the modified Weller in order to realize the benefits described in Lockridge, specifically to allow the user to rewind and review sections found in Pay-Per-View movies, greatly enhancing the user's viewing experience.

Regarding claim 2, a system according to claim 1, wherein the first network comprises a communication link via the Internet (Weller: col. 1, lines 27-33).

Regarding claim 3, a system according to claim 2, wherein the communication link comprises a backbone link (Weller: col. 5, lines 35-37).

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Regarding claim 4, the modified Weller reference teaches the collection engine comprises a DSLAM (Kim: page 2-3, para 36).

Referring to claim 5, the modified Weller reference discloses the second network comprises a DSL connection (Kim: page 2-3, para 36).

Referring to claim 6, the modified Weller reference discloses the collection engine comprises a cable head end (Kim: page 2, para 30).

Referring to claim 7, the modified Weller reference discloses the second network comprises a cable modem connection (Kim: Fig. 1, Fig. 2).

Referring to claim 8, the modified Weller reference discloses the collection engine comprises a wireless interface (Kim: Fig. 1, tags 106, 120).

Referring to claim 9, the modified Weller reference discloses the invention substantively as described in claim 8. The modified Weller reference does not disclose that the wireless network operates on a standard described in 802.11a, b, or g, however these are widely known standards for wireless networking and one of ordinary skill in the art would find it obvious to utilize these standards.

By this rationale, “Official Notice” is taken that both the concept and advantages of providing for an 802.11 a, b, or g interface for the wireless network of the modified Weller is well known and expected in the art. It would have been obvious to one of ordinary skill in the art to modify the teaching of Weller in order to provide standard communication with the network of Fig. 1 for compatibility, their interoperability and ease of use.

Referring to claims 10-13, the modified Weller reference discloses the embodiment of a cable modem and head end as described in claim 1. The modified Weller reference does not specifically disclose that the local node can be a central telephone office or an optical head end and the second network can be a dial-up modem connection or a fiber optic connection, however

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these mediums and communication devices are well known for carrying data over links to subscribers.

By this rationale, “Official Notice” is taken that both the concept and advantages of providing for the use of a central telephone office or an optical head end is well known and expected in the art. It would have been obvious to one of ordinary skill in the art to modify the system of the modified Weller reference to include a central telephone office or an optical head end since the modified Weller reference does disclose the use of DSL connections over twisted pair as well as wireless networking embodiments of the invention (§ 49-50). This would provide sufficient motivation to utilize the invention over other types of networks, eventually finding the well known telephone and optical networks widely known and used.

Referring to claim 14, the modified Weller reference discloses the collection engine comprises a server (i.e. anything which serves anything to anything can be construed as a server (Weller: Fig. 5)).

Referring to claim 15, the modified Weller discloses the second network comprises a LAN or a MAN (Weller: col. 5, lines 18-46).

Referring to claim 16, the modified Weller discloses the content storage comprises a database (Weller: col. 7, lines 7-28).

Referring to claims 20 and 21, the modified Weller discloses that the device comprises local storage (Kim: page 3, para 38).

Referring to claims 27 and 28, the modified Weller discloses the distributable content is digitally encoded video (Kim: para 30).

Referring to claim 30, the modified Weller discloses the subscriber receives the content on a pay-per-use basis (Lockridge: page 2, para 22).

Referring to claim 31, the modified Weller discloses that there is more than one content provider (Weller: Fig. 4-7).

Regarding claim 34, a method for managing the transmission of distributable content (Weller: col. 2, lines 19-35), comprising:

- receiving subscriber requests from subscribers in a subscriber group (Weller: col. 6, lines 33-38; Fig. 1, tags 119);

- receiving distributable content from at least one content provider via a first network based on the subscriber requests (Weller: col. 6, lines 53- col. 7, line 28; predetermined schedule is the deployment; the usage is the overflow),

- wherein the distributable content comprises a subset of the distributable content corresponding to requests from subscribers in the subscriber group (Weller: the content from different providers; Fig. 4-7) and the distributable content is received from the at least one content provider on a usage demand basis (Weller: col. 6, lines 53- col. 7, line 28; the usage is the overflow) and an appropriate fee is applied by the content provider for each request (Weller: col. 6, line 66- col. 7, line 6); and

- storing the distributable content in content storage remote from a viewing device of each subscriber in the subscriber group (Weller: col. 6, lines 3-32);

- transmitting to the viewing device via a second network the distributable content (Weller: col. 6, lines 33-38; Fig. 1, tags 119),

Weller does not explicitly disclose that the distributable content is updated at specified intervals based on usage demand for the distributable content and the content is transmitted after a minimum number of requests for the content has been received.

In analogous art, the Kim reference discloses another video-on-demand system which discloses updating popular (i.e. popular content being defined as those videos which are more in demand) content monthly, and that the most popular content meeting a threshold number of

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requests is transmitted to the Central Office Storage (COS) from the Video Warehouse (VW) (Figure 4, ref. 404, 412; ¶ 66, 70).

It would have been obvious to one of ordinary skill in the art to combine the teachings of Kim with Weller in order to efficiently predict which videos a user will request, thereby providing a real time video-on-demand experience while still maintaining reduced bandwidth latencies as supported by Kim (e.g. abstract).

The modified Weller does not expressly disclose that the distributable content is set to expire after a predetermined time.

In analogous art, Lockridge discloses another VOD system which discloses expiring distributable content after a predetermined time if not enough clients have viewed the content; and sending to the viewing device associated with a subscriber that requested to receive the distributable content at scheduled times on a pay-per-use basis (Lockridge: page 2, para 22).

It would have been obvious to one of ordinary skill in the art to combine the teaching of Lockridge with modified Weller in order to incorporate Pay-Per-View systems described in the prior art with the Video-On-Demand system described in the modified Weller in order to realize the benefits described in Lockridge, specifically to allow the user to rewind and review sections found in Pay-Per-View movies, greatly enhancing the user's viewing experience.

Claims 35-49, 52-54, 60-62, 64 are rejected for similar reasons as stated above.

Regarding claim 80, a computer readable medium, the computer readable medium being readable by a computer to execute a method of managing the transmission of distributable content (Weller: col. 2, lines 19-35), the method comprising:

receiving subscriber requests from subscribers in a subscriber group (Weller: col. 6, lines 33-38; Fig. 1, tags 119);

receiving distributable content from at least one content provider via a first network based on the subscriber requests (Weller: col. 6, lines 53- col. 7, line 28; predetermined schedule is the deployment; the usage is the overflow), wherein the distributable content comprises a subset of the distributable content corresponding to requests from subscribers in the subscriber

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group (Weller: the content from different providers; Fig. 4-7) and the distributable content is received from the at least one content provider on a usage demand basis corresponding to a total number of fees applied for different subscribers in the subscriber group that request the distributable content (Weller: col. 6, lines 53- col. 7, line 28; predetermined schedule is the deployment; the usage is the overflow);

storing the distributable content in content storage remote from a viewing device of each subscriber in the subscriber group (Weller: col. 6, lines 3-32); and

transmitting to the viewing device via a second network the distributable content (Weller: col. 6, lines 33-38; Fig. 1, tags 119), wherein the distributable content is configured to expire after a predetermined time, from the content storage to [[a]] the viewing device of a subscriber that requested to receive receives the distributable content at scheduled times.

Weller does not explicitly disclose that the distributable content is updated at specified intervals based on usage demand.

In analogous art, the Kim reference discloses another video-on-demand system which discloses updating popular (i.e. popular content being defined as those videos which are more in demand) content monthly, and that the most popular content meeting a threshold number of requests is transmitted to the Central Office Storage (COS) from the Video Warehouse (VW) (Figure 4, ref. 404, 412; ¶ 66, 70).

It would have been obvious to one of ordinary skill in the art to combine the teachings of Kim with Weller in order to efficiently predict which videos a user will request, thereby providing a real time video-on-demand experience while still maintaining reduced bandwidth latencies as supported by Kim (e.g. abstract).

The modified Weller does not expressly disclose that the distributable content is set to expire after a predetermined time.

In analogous art, Lockridge discloses another VOD system which discloses expiring distributable content after a predetermined time if not enough clients have viewed the content; and sending to the viewing device associated with a subscriber that requested to receive the distributable content at scheduled times on a pay-per-use basis (Lockridge: page 2, para 22).

It would have been obvious to one of ordinary skill in the art to combine the teaching of Lockridge with modified Weller in order to incorporate Pay-Per-View systems described in the

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prior art with the Video-On-Demand system described in modified Weller in order to realize the benefits described in Lockridge, specifically to allow the user to rewind and review sections found in Pay-Per-View movies, greatly enhancing the user's viewing experience.

Claims 81-84, 87-89, 91-92 are rejected for similar reasons as stated above.

Claims 23-24; 56-57 are rejected under 35 U.S.C. 103(a) as being unpatentable by U.S. Patent No. 7,149,797 by Weller et al in view of US 2002/0129375 by Kim et al in further view of US 2006/0156357 by Lockridge et al in further view of US 2004/0010717 by Simec et al.

Referring to claims 23 and 24, the modified Weller discloses the invention substantively as described in claim 21.

The modified Weller does not specifically disclose the content is selectively controlled via digital rights management.

In analogous art, Simec discloses another video-on-demand system which discloses the use of DRM to prevent unauthorized reproduction or usage (p. 2, ¶ 22).

It would have been obvious to one of ordinary skill in the art to combine the teaching of the modified Weller with Simec in order to prevent the unauthorized usage of the movies stored on the subscriber devices, thereby preventing hacking and BORE (Break once, read everywhere) copying, thereby ensuring the proper payment is received.

Claims 56 and 57 are rejected for similar reasons as stated above.

Claims 25-26, 29; 58-59, 65 are rejected under 35 U.S.C. 103(a) as being unpatentable by U.S. Patent No. 7,149,797 by Weller et al in view of US 2002/0129375 by Kim et al in further view of US 2006/0156357 by Lockridge et al in further view of US 2003/0204856 by Buxton.

Referring to claim 25,

The modified Weller teaches the invention of claim 1.

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The Weller reference fails to teach authentication of the subscriber through keys.

However, in analogous art, the Buxton reference discloses the subscriber activates the viewing of the distributable content via a key mechanism (i.e. transaction in order to receive the data such as a pay-per-view situation) (p. 5, ¶ 43-44; page 4, para 33) in order to optimized access to content like pay per view (Buxton: page 1, para 4).

It would have been obvious to one of ordinary skill in the art to combine the teaching of the modified Weller with Buxton in order to optimized access to content like pay per view (Buxton: page 1, para 4).

Referring to claim 26, the modified Weller discloses the key mechanism authenticates via the first network (Buxton: ¶ 43-44; page 4, para 33).

Referring to claim 29, the modified Weller discloses the subscriber subscribes to the content provider (Buxton: authorized to receive the content data) (p. 5, ¶ 43-44).

Claims 58-59, 65 are rejected under the rationale established above.

Claims 93-98, 102, 104-106 are rejected under 35 U.S.C. 103(a) as being unpatentable by U.S. Patent No. 7,149,797 by Weller et al in view of US 2002/0129375 by Kim et al in further view of US 2003/0005454 by Rodriguez in further view of USPN 7,254,622 by Nomura et al.

Regarding claim 93, a system for receiving a transmission of distributable content (Weller: col. 2, lines 19-35), comprising:

a viewing device that generates requests to receive distributable content (Weller: col. 6, lines 33-38; Fig. 1, tags 119; browsers are displayed on screens inherently on computers), including videos, audio, and software, from a remote collection engine having a content storage device storing distributable content received from at least one content provider (Weller: col. 6, lines 33-38; col. 7, lines 29-45).

Weller does not explicitly disclose local storage to store the files.

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In analogous art, the Kim reference discloses a local storage associated with the viewing device to store the distributable content (Kim: page 3, para 38) in order to provide a real time video-on-demand experience while still maintaining reduced bandwidth latencies as supported by Kim (e.g. abstract).

It would have been obvious to one of ordinary skill in the art to combine the teachings of Kim with Weller in order to provide a real time video-on-demand experience while still maintaining reduced bandwidth latencies as supported by Kim (e.g. abstract).

The modified Weller does not expressly disclose that a GUI is used to select the distributable content.

In analogous art, Rodriguez discloses another video on demand system (e.g. abstract) which discloses the use of a GUI to permit the subscriber to receive the distributable content (Figures 21-26).

It would have been obvious to one of ordinary skill in the art to combine the GUI system of Rodriguez with the digital distribution system of modified Wells in order to allow the subscribers the efficient use of the GUI management controls offered by Rodriguez to order and download videos.

The modified Weller does not expressly disclose content expiring after number of uses.

However, the Nomura reference teaches another VOD system which discloses expiring content after a specified number of viewings (col. 4, lines 25-33); based on fees associated with the distributable content stored in the content storage as applied by the content provider (Nomura: col. 10, lines 21-30).

It would have been obvious to one of ordinary skill in the art to combine Nomura with modified Weller in order to realize the benefits described in Nomura, specifically to simplify the expiration system by knowing only how many times the content was viewed, instead of knowing what time the content was downloaded, the expiration time, and the current time, greatly reducing processing requirements

Claims 94 and 95 are rejected for similar reasons as stated above.

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Referring to claim 96, the modified Weller further disclose downloading the data as a background task, and providing this information in a GUI selectable option (Rodriguez: Figures 23-26, options to download the file when data is not being transferred, thereby being transferred in the background, otherwise it would be transferred immediately).

Referring to claim 97 and 98, the modified Weller teaches the invention of claim 93, authentication of the subscriber through keys and viewer authorization module (Rodriguez: Figure 28, authorization of a PIN to purchase the movie, if validated, the movie will then be downloaded and viewed).

Claim 102, 104-106 are rejected under the same rationale as given above.

Claims 100-101 are rejected under 35 U.S.C. 103(a) as being unpatentable by U.S. Patent No. 7,149,797 by Weller et al in view of US 2002/0129375 by Kim et al in further view of US 2003/0005454 by Rodriguez in further view of USPN 7,254,622 by Nomura et al in further view of US 2004/0010717 by Simec et al.

Referring to claims 100 and 101, the modified Weller discloses the invention substantively as described in claim 93.

The modified Weller does not specifically disclose the content is selectively controlled via digital rights management.

In analogous art, Simec discloses another video-on-demand system which discloses the use of DRM to prevent unauthorized reproduction or usage (p. 2, ¶ 22).

It would have been obvious to one of ordinary skill in the art to combine the teaching of the modified Weller with Simec in order to prevent the unauthorized usage of the movies stored on the subscriber devices, thereby preventing hacking and BORE (Break once, read everywhere) copying, thereby ensuring the proper payment is received.

Claims 107-108, 110, 113 are rejected under 35 U.S.C. 103(a) as being unpatentable by U.S. Patent No. 7,149,797 by Weller et al in view of US 2003/0005454 by Rodriguez in further view of US 2006/0156357 by Lockridge et al.

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Regarding claim 107, a method for managing the receipt of distributable content (Weller: col. 2, lines 19-35), comprising:

connecting to a network coupled to a content storage (Weller: Fig. 5-7), the content storage storing distributable content received from at least one content provider (Weller: Fig. 5-7).

The Weller reference fails to teach a user interface for selection of content.

However, the Rodriguez reference teaches:

presenting a user interface to permit a subscriber to selectively receive the distributable content (Rodriguez: Fig 23-26), wherein the user interface provides a list of distributable content (Rodriguez: Fig 23-26) that is dynamically updated to include popular distributable content based on fees associated with the popular distributable content stored on the content storage as applied by the content provider (Rodriguez: page 7, para 67, 68) in order to adequately deliver electronic media to clients (Rodriguez: page 1, para 4)

The modified Weller does not expressly disclose that the distributable content is set to expire after a predetermined time.

In analogous art, Lockridge discloses another VOD system which discloses expiring distributable content after a predetermined time if not enough clients have viewed the content; (Lockridge: page 2, para 22).

It would have been obvious to one of ordinary skill in the art to combine the teaching of Lockridge with modified Weller in order to incorporate Pay-Per-View systems described in the prior art with the Video-On-Demand system described in the modified Weller in order to realize the benefits described in Lockridge, specifically to allow the user to rewind and review sections found in Pay-Per-View movies, greatly enhancing the user's viewing experience.

Referring to claim 109, the modified Weller teaches the use of receiving the content at selectable times (see rejections above), and providing a GUI to download the content at selectable times (Rodriguez: Figures 23-27).

Claims 108, 110, 113, and 116-120, are rejected for similar reasons as stated above.

Claims 114, 115 are rejected under 35 U.S.C. 103(a) as being unpatentable by U.S. Patent No. 7,149,797 by Weller et al in view of US 2003/0005454 by Rodriguez in further view of US 2006/0156357 by Lockridge et al in further view of US 2004/0010717 by Simec et al.

Referring to claims 114, 115, the modified Weller discloses the invention substantively as described in claim 107.

The modified Weller does not specifically disclose the content is selectively controlled via digital rights management.

In analogous art, Simec discloses another video-on-demand system which discloses the use of DRM to prevent unauthorized reproduction or usage (p. 2, ¶ 22).

It would have been obvious to one of ordinary skill in the art to combine the teaching of the modified Weller with Simec in order to prevent the unauthorized usage of the movies stored on the subscriber devices, thereby preventing hacking and BORE (Break once, read everywhere) copying, thereby ensuring the proper payment is received.

Claims 135, 136, 144, and 146-148 are rejected under 35 USC 103(a) as being unpatentable over U.S. Patent No. 7,149,797 by Weller et al in view of US 2002/0129375 by Kim et al in further view of US 2006/0156357 by Lockridge et al in further view of US 2003/0005454 by Rodriguez in further view of US 2004/0010717 by Simec et al in further view of USPN 7,254,622 by Nomura et al

Referring to claim 135, Weller-Kim-Lockridge-Rodriguez discloses the invention as described in the previous claims and rejections.

Rodriguez discloses the GUI providing selectable options to receive the content at selectable times on a pay per use basis(see rejections above), to receive the content as a background task (i.e. the data is downloaded in the background as long as it is finished before a certain time) (see rejections above), and presents a security dialog to receive a key to authorize the subscriber to view the content (i.e. PIN) (see rejections above). Weller-Kim-Lockridge-Rodriguez do not explicitly state that the content is set to expire after a set number of viewings, rather a predetermined time.

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In analogous art, '622 discloses another VOD system which discloses expiring content after a specified number of viewings (col. 4, lines 25-33).

It would have been obvious to one of ordinary skill in the art to combine Weller-Kim-Lockridge-Rodriguez with '622 by replacing the content expiration system of Weller-Kim-Lockridge-Rodriguez with the content expiration system described in '622 in order to realize the benefits described in '622, specifically to simplify the expiration system by knowing only how many times the content was viewed, instead of knowing what time the content was downloaded, the expiration time, and the current time, greatly reducing processing requirements.

Weller-Kim-Lockridge-Rodriguez do not disclose the use of a DRM mechanism. In analogous art, Simec discloses another video-on-demand system which discloses the use of DRM to prevent unauthorized reproduction or usage (p. 2, ¶ 22). It would have been obvious to one of ordinary skill in the art to combine the teaching of Weller-Kim-Lockridge-Rodriguez with Simec in order to prevent the unauthorized usage of the movies stored on the subscriber devices, thereby preventing hacking and BORE (Break once, read everywhere) copying, thereby ensuring the proper payment is received.

Claims 144, 146-148 are rejected for similar reasons as stated above.

REMARKS

Applicant has presented amendments the independent claims.

The new examiner, after a thorough examination of the case believes there are many divergent issues at hand in separately defined and different claim limitations and scopes. Applicant is asked to simplify the issues by making parallel changes to the claims and arguing each claim for similar reasoning. Please review MPEP 2144.03 and see previous arguments.

With respect to the official notice, some of the features cited by official notice are taught by the change in the prior art. However, it seems applicant still does not fully understand the proper procedure in traversing official notice.

Applicant argues, in substance, that the references do not teach the content is transmitted to the collection engine after the collection engine receives a minimum number of requests for the content. The Examiner disagrees. As explained in Kim, the popularity lists are updated monthly based on the monthly number of viewings. If the number of viewings falls below a specific threshold, the movie is not transmitted to the particular COS. The frequency is utilized to determine the most popular content, and it is the most popular content (i.e. those movies which have met a threshold number of requests), that are transmitted to the COS's. By this rationale, the rejection is maintained.

Conclusion

Applicant has failed to seasonably challenge the Examiner's assertions of well known subject matter in the previous Office action(s) pursuant to the requirements set forth under MPEP §2144.03. A "seasonable challenge" is an explicit demand for evidence set forth by Applicant in the next response. Accordingly, the claim limitations the Examiner considered as "well known" in the first Office action are now established as admitted prior art of record for the course of the prosecution. See *In re Chevenard*, 139 F.2d 71, 60 USPQ 239 (CCPA 1943).

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

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will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Benjamin R. Bruckart whose telephone number is (571) 272-3982. The examiner can normally be reached on 9:00-5:30PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeff Pwu can be reached on (571) 272-6798. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Benjamin R Bruckart
Examiner
Art Unit 2446

/Benjamin R Bruckart/
Primary Examiner, Art Unit 2446